

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

RESURRECTION SCHOOL; CHRISTOPHER  
MIANECKI, individually and as next friend on  
behalf of his minor children C.M., Z.M., and N.M.;  
and STEPHANIE SMITH, individually and as  
next friend on behalf of her minor child F.S.,  
Plaintiffs,

v.

ELIZABETH HERTEL, in his official capacity as  
the Director of the Michigan Department of Health  
and Human Services; DANA NESSEL, in her  
official capacity as Attorney General of the State  
of Michigan; LINDA S. VAIL, in her official  
capacity as the Health Officer of Ingham County;  
and CAROL A. SIEMON, in her official capacity  
as the Ingham County Prosecuting Attorney,  
Defendants.

Case No. 1:20-cv-1016

**EXPEDITED CONSIDERATION  
REQUESTED**

Honorable Paul L. Maloney

**EX-PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AGAINST  
DEFENDANT LINDA S. VAIL AND CAROL A. SIEMON**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs Resurrection School, Christopher MianECKI, individually and as next friend on behalf of his minor children C.M., Z.M., and N.M., and Stephanie Smith, individually and as next friend on behalf of her minor child F.S. (collectively referred to as “Plaintiffs”), by and through undersigned counsel, hereby move this Court for a Temporary Restraining Order (TRO) (*ex parte*), immediately enjoining the enforcement of Defendant Linda S. Vail’s COVID-19 Order issued on September 2, 2021 (hereinafter “Defendant’s order”) as applied to Plaintiffs. Defendant’s order, requiring the use of facial masks on K-5 students, substantially burdens religious education and formation.

Expedited consideration is necessary because the harm to Plaintiffs is occurring now, and it is irreparable. Defendant's order goes into effect on Tuesday, September 7, 2021 and will violated Plaintiffs' free exercise of religion guaranteed under the First Amendment. Parents opposed to Defendant's order are deciding now to not return their children to school. Young students are already feeling the anxiety imposed by Defendant's order. The harm is set forth in greater detail in the accompanying brief, Declarations submitted at ECF No. 8, Exhibits 1-3, and Plaintiffs' verified first supplement to their complaint, which Plaintiffs anticipate filing later today under Fed. R. Civ. P. 15(d).

Pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure, Plaintiffs' counsel hereby certifies the efforts made to give notice to Defendants and why the Court should issue the requested TRO immediately and without further notice to any party. On September 2, 2021, I emailed counsel of record for Defendants Vail and Siemon and requested concurrence in this motion. Counsel does not concur to the relief sought by Plaintiffs. Defendant Vail issued her order on September 2, 2021. Plaintiffs sought consent on September 2, 2021. Defendants denied concurrence on September 3, 2021, and Plaintiffs filed this motion as soon as possible after.

Plaintiffs request that the Court immediately issue the requested TRO (*ex parte*). Time is of the essence—Defendant's order controls and restricts Plaintiffs' Catholic education starting Tuesday.

For all the reasons stated in the attached Brief in Support, Plaintiffs respectfully request that this Honorable Court grant their Motion and issue a Temporary Restraining Order against Defendant Vail as outlined in the attached proposed order.

Respectfully submitted,

GREAT LAKES JUSTICE CENTER

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*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2021, a copy of the foregoing Ex-Parte Motion for Temporary Restraining Order, with Brief in Support was filed electronically with the Court. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the court's electronic filing system. Parties may access this filing through the court's system.

GREAT LAKES JUSTICE CENTER

/s/ Erin E. Mersino  
Erin E. Mersino